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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,368	05/25/2001	Leonard S. Hand	6169-202	3711
7590	12/22/2003		EXAMINER	ZHOU, TING
Gregory A. Nelson Akerman Senterfitt 222 Lakeview Avenue, Fourth Floor P.O. Box 3188 West Palm Beach, FL 33402-3188			ART UNIT	PAPER NUMBER
2173				
DATE MAILED: 12/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/865,368	HAND ET AL.
	Examiner	Art Unit
	Ting Zhou	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-45 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 May 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s) _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Note reference character “30” in Figure 1.

2. Applicant is required to submit a proposed drawing correction of the above noted deficiencies (preferably in red ink) in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-6, 8-16, 18-22, 24-29, 31-39 and 41-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Horii U.S. Patent 6,496,209.

Referring to claims 1, 10, 19, 24, 33 and 43, Horii teaches a method and computer readable storage for monitoring and visualizing a plurality of metrics (icons) in a dynamic data space and content delivery network (column 2, lines 8-18 and shown in Figure 1). Specifically, Horii teaches, in column 2, lines 26-38, defining metrics (icons), each of which corresponds to an entity (node status) in the data space, determining a value for each metric (determining the status of a component of the system) and providing a graphical display representation of the determined values in a graphical user interface (via the use of the display of nodes and link lines) where the interface changes the display of the icons in accordance with changes in the contents to be displayed (column 2, lines 20-25).

Referring to claims 2, 12, 22, 25, 35 and 45, Horii teaches defining a maximum (status 1 shown in Figure 9A) and minimum value (status 7 shown in Figure 9G) for each metric, quantizing discrete levels between the maximum and minimum values (statuses 2-6 shown in

Figures 9B-9F) and assigning a unique indicator to each of the quantized discrete levels (the icons used to represent each status in Figures 9A-9B).

Referring to claim 3, 13, 21, 26, 36 and 44, Horii teaches the indicator representing the discrete levels consisting of a different color (column 2, lines 39-42), a different shade and a different pattern for each quantized discrete level, as shown in Figures 9A-9B.

Referring to claims 4, 14, 27 and 37, Horii teaches interrogating each entity within the data space for the determined value (investigates each address within the node when an abnormal signal is detected), as recited in column 6, lines 53-57.

Referring to claims 5 and 28, Horii teaches automatically updating the display representations of the determined values in the user interface, as recited in column 2, lines 20-25.

Referring to claims 6, 16, 29, 39, Horii teaches forming a graphical representation of at least one entity in the dynamic data space (display the icons) and modifying the graphical representation with a visual indicator corresponding to the determined value (the decided color displayed on the icon by the abnormal-state alarm for example), as recited in column 8, lines 51-62.

Referring to claims 8, 15, 31 and 38, Horii teaches updating the graphical representations dynamically based upon subsequent value determinations (displaying real-time changes in the status), as recited in column 10, lines 27-33.

Referring to claims 9, 18, 32 and 41, Horii teaches steps of determining the values for the metrics (abnormal-position determining means) and providing the graphic display of the metric values (icon display means) being periodic (the steps occur in sequence and repeat to update the values), as recited in column 2, lines 26-38.

Referring to claims 11, 20, 34 and 43, Horii teaches the display of the defined metrics showing the connections (via link lines) between the nodes, as can be seen from Figure 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Dev et al. U.S. Patent 5,261,044.

Referring to claim 23, Dev et al. teach a system for monitoring components in a CDN (maintaining information relating to network entities), as recited in column 2, lines 51-55. Specifically, Dev et al. teach an agent for retrieving values for metrics from the components (database manager) (column 4, lines 13-16), a processor for determining a graphical representation (icons) for each retrieved value and a graphical user interface for presenting the determined graphical representation (Figure 1), where the interface has a selectable list of metrics (icons containing user selectable areas) and changing to reflect changes to the metrics, as recited in column 2, lines 55-64.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 17, 30 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horii U.S. Patent 6,496,209, as applied to claims 1, 10, 24 and 34 above, and further in view of Dev et al. U.S. Patent 5,261,044.

Referring to claims 7, 17, 30 and 40, while Horii et al. teach all of the limitations as applied to the claims above, he fails to teach selecting a metric from a list of metrics displayed within the graphical user interface. Dev et al. teach an information monitoring and display method and computer readable storage similar to that of Horii. In addition, Dev et al. further teach selecting a metric from a list of metrics (user selectable areas on the icons) displayed to the user on the graphical interface, as recited in column 2, lines 55-64. It would have been obvious to one of ordinary skill in the art, having the teachings of Horii and Dev et al. before him at the time the invention was made, to modify the scheme for monitoring metrics of Horii to include the list of selectable metrics taught by Dev et al. It would have been advantageous for one to utilize such a combination in order to allow users to see the information they have to choose from and give them the ability to choose the information they want displayed to them.

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6. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach electronic books with similar mechanisms for note taking and retrieval.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (703) 305-0328. The examiner can normally be reached on Monday - Friday 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-8720.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

December 1, 2003



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100